

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

ADMAL E. MARSHALL and
PEGGIE A. MARSHALL

v.

JPMORGAN CHASE BANK, N.A.,
CATHY LEE, ROBERT LEE, and
ROBIN WELDON, Substitute Trustees

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Case No. 4:10-cv-311

MEMORANDUM OPINION AND ORDER

Before the Court is Defendant JPMorgan Chase Bank, N.A.'s Motion for Summary Judgment and Brief in Support (Doc. No. 19). Having considered the motion, the applicable law, and the lack of opposition from Plaintiffs, the motion is GRANTED.

Plaintiffs filed this case to challenge Defendants' actions regarding Plaintiffs' residential mortgage. Plaintiffs allege that Defendants made material misrepresentations pertaining to the mortgage, in violation of the common law and the Texas Deceptive Trade Practices Act. The Court dismissed the individual Defendants on September 8, 2010.

JPMorgan Chase—the only remaining Defendant—filed a motion for summary judgment on March 18, 2011. Plaintiffs failed to respond to the motion for summary judgment. On April 27, 2011, the Court ordered Plaintiffs to respond to motion for summary judgment by May 6, 2011 (Doc. No. 20). A copy of the order was sent by certified mail to each of the Plaintiffs and to their attorney. Plaintiffs received the order on May 5, 2011 (Doc. Nos. 22, 23). To date, Plaintiffs still have not responded to Defendant JPMorgan Chase's motion for summary judgment. Under Local Rule CV-7(d), when a party fails to oppose a motion, the Court will assume there is no opposition.

Furthermore, pursuant to Local Rule CV-56(c), Defendants' version of the facts as claimed in the motion for summary judgment and supported by admissible evidence is assumed to be true unless Plaintiffs respond with competing summary judgment evidence. Defendants properly supported their factual allegations,


and Plaintiffs have not responded. Thus the Court assumes Defendants' factual allegations are true.

Given the uncontroverted facts and the applicable law, Defendants are entitled to judgment as a matter of law under Fed. R. Civ. P. 56.

Accordingly, Defendant JPMorgan Chase Bank, N.A.'s Motion for Summary Judgment and Brief in Support (Doc. No. 19) is hereby **GRANTED**.

It is SO ORDERED.

SIGNED this 7th day of June, 2011.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE